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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/672,305	09/29/2000	Neelakantan Sundaresan	AM9-99-0148	2611

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EXAMINER

CHANG, SABRINA A

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 02/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/672,305

Applicant(s)

SUNDARESAN, NEELAKANTAN

Examiner

Sabrina Chang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 26 and 27 is/are pending in the application.
- 4a) Of the above claim(s) 10-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 26 and 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Election/Restrictions

During a telephone conversation with Scott McGinn on August 19, 2000 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-9, 26 and 27. Affirmation of this election must be made by applicant in replying to this Office action. Claims 10-25 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention [See Paper 4, 8/28/03].

Applicant's withdrawal of claims 10-25 has been considered.

Response to Arguments

Applicant's arguments with respect to claims 1-9, 26, 27 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1 - 5, 7 – 9, 26, 27 are rejected under 35 U.S.C. 102(a) as being anticipated by the services provided by icontact.com, i.e. "NetRep", as described in the articles "Online Stories Hope Shoppers say Aye to Watchful Assistants" (Marriott, Michel. Feb. 20, 2000. Sun Sentinel) and "Internet's First Online Salesperson Technology Offered by icontact.com, Inc." (Press Release. Feb. 16, 2000).

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NetRep is a sales assistance solution for helping consumers navigate e-commerce catalogs (purchasing made at an electronic store, or e-store, inherently comprising navigation through a hierarchy of categories). Typical systems incorporate the ability for a user to request help from a website (user requesting help from an e-Store assistant) [Marriott]. The NetRep system however goes beyond the traditional system and also provides a *proactive* solution in offering help to the customer. The NetRep system “recognizes” a regular shopper (inherently comprising a customer logging into the system) [Press Release]. By recognizing the customer, the system then “remembers” what the customer has previously purchased and knows how long the shopper usually spends at the Web site.

A “guide” monitors a customer’s navigation through the store website. The guide determines if the shopper needs help (recognizing that the user is lost in attempting to find an item) [Marriott]. When the guide notices a problem, he/she offers help via a text message that appears on the customer’s screen [Marriott] (interactively querying at any time during a session of said user whether the user needs help in finding said item, wherein said help resource comprises one of a live person and a chat program).

In reference to claim 7, NetRep does not explicitly disclose that the system comprises a software dialer, which dials up a telephone number of a customer support center. NetRep facilitates any number of methods of communication between the customer and the store – as well as *plurality* of different resource at the store. *Any* method could have been used to facilitate communication between the store’s representatives and the customer – in the instant case it is Internet messaging. The same principle applies to *all* potential forms of communication,

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including automatically dialing a telephone number. Such a recitation of a particular method of communication does not lend to an improvement to the system or have an unpredictable result.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over the services provided by icontact.com, i.e. "NetRep", as described in the articles "Online Stories Hope Shoppers say Aye to Watchful Assistants" (Marriott, Michel. Feb. 20, 2000. Sun Sentinel) and "Internet's First Online Salesperson Technology Offered by icontact.com, Inc." (Press Release. Feb. 16, 2000), as applied in claim 1.

In reference to claim 6, NetRep does not explicitly disclose that the e-Store assistant is implemented in software as one of a program and a search window which is activated based on one of a query and activated automatically after a predetermined number of navigations by said user. Instead, NetRep comprises a real live "guide" who monitors the behavior of a customer and who decides when to intervene to aid his/her navigation of a web site.

It was known at the time of the invention that merely providing an automatic means to replace a manual activity which accomplishes the same result is not sufficient to distinguish over the prior art, *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958). For example, simply automating the step of detecting when the customer needs help gives just what one would expect from the manual step as shown in "NetRep". The provision of this calculation via

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software, using any number of metrics – e.g. number of navigations, amount of time, or otherwise – provides no enhancement in the claimed step other than the known advantage of increased speed. The “guide’s” calculation of when to intervene in the customer’s navigation could easily be captured by a computer algorithm. The end result is the same as compared to the manual method.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to automate the step of determining when to intervene to facilitate a customer, using software, because this would speed up the process that is known in the art.

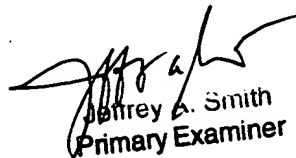
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sabrina Chang whose telephone number is 703 305 4879. The examiner can normally be reached on 8:30 am - 5:30 pm Mon.- Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Jeffrey Smith can be reached on 703 308 3588. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1113.

SC


Jeffrey A. Smith
Primary Examiner